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# Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

## I. Introduction

1. The Security Council, by its resolution 1244 (1999), authorized the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration under which the people of Kosovo could enjoy substantial autonomy.

2. The present report is submitted to the Security Council following nine years of interim administration led by the United Nations, with the support of its key operational partners, including the European Union, the Organization for Security and Cooperation in Europe (OSCE) and United Nations agencies, funds and programmes. During those nine years, the international civil presence, known as the United Nations Interim Administration Mission in Kosovo (UNMIK), helped Kosovo make significant strides in establishing and consolidating democratic and accountable Provisional Institutions of Self-Government and in creating the foundations for a functioning economy. While there has been substantial progress in the implementation of standards, there remains scope for further improvement in certain areas, in particular in the field of the return of refugees and internally displaced persons. The full reconciliation and integration of Kosovo communities will be a long-term process and remains an uphill challenge that requires a genuine commitment by members of all of the communities.

3. On 3 April 2007, I submitted to the Security Council the Comprehensive Proposal for the Kosovo Status Settlement (S/2007/168/Add.1), prepared by my Special Envoy for the Future Status Process for Kosovo, Martti Ahtisaari. The Council did not, however, endorse the proposal. Thereafter a "Troika", comprising the European Union, the United States of America and the Russian Federation, facilitated additional intensive negotiations between the parties at the end of 2007. Those talks also ended without a consensual resolution of the status of Kosovo. On 17 February 2008, the Assembly of Kosovo held a session during which it adopted a declaration of independence in which it declared Kosovo an independent and sovereign State. The declaration received the support of 109 of the 120 members of the Assembly; the 10 Kosovo Serb members did not attend.

4. I immediately drew this development to the attention of the Security Council for its consideration. In doing so, I reaffirmed that, pending guidance from the Council, the United Nations would continue to operate on the understanding that

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resolution 1244 (1999) remained in force and that UNMIK would continue to implement its mandate in the light of the evolving circumstances. The Council took no position following the 17 February declaration. To date, 42 States Members of the United Nations have recognized the independence of Kosovo.

## II. Developments on the ground

5. Following the declaration of independence, Serbia adopted a decision stating that the declaration represented a forceful and unilateral secession of a part of its territory. In addition, most Kosovo Serbs condemned the declaration of independence and took measures that pose serious challenges to the role of UNMIK in Kosovo. As an expression of their dissatisfaction, Kosovo Serbs expanded their boycott of Kosovo institutions to include the police, judiciary, transportation and municipal administrations. Kosovo Serb police officers in the Kosovo Police Service (KPS) have left their posts in several municipalities in southern Kosovo, while Kosovo Serbs in KPS in northern Kosovo have continued to report to UNMIK international police.

6. Kosovo Serbs have also expressed their dissatisfaction through protests, which have for the most part been held peacefully, although sporadic violence has occurred in northern Kosovo. On 19 February, small groups of Kosovo Serb protesters destroyed two Customs Service points on the Administrative Boundary Line, while on 14 March protesters forcefully seized the courthouse in northern Mitrovica. Subsequently, on 17 March, violent confrontation with UNMIK police and the Kosovo Force occurred during a police operation launched to reassert control over the courthouse. UNMIK is making efforts to restore customs at the Administrative Boundary Line and to enable the court in Mitrovica to operate.

7. A new reality and challenges to UNMIK authority are also emerging on the ground in Kosovo Albanian majority areas. On 9 April, the Assembly of Kosovo passed a constitution for Kosovo that is scheduled to come into force on 15 June. The constitution is designed in such a way that it would effectively remove from UNMIK its current powers as an interim civil administration. In this regard, the government of Kosovo has indicated that it would welcome a continued United Nations presence in Kosovo provided that it carries out only limited residual tasks.

8. In addition to these developments on the ground, on 18 February I received a letter from the High Representative for the Common Foreign and Security Policy of the European Union informing me of the willingness of the European Union to play an enhanced role in the area of the rule of law in Kosovo within the framework provided by resolution 1244 (1999). Since then, the European Union has reiterated its readiness to deploy staff to Kosovo in the functional areas of police, justice and customs.

9. It is also my understanding that the European Commission has informed my Special Representative that it would end funding for operations of the economic reconstruction pillar of UNMIK (pillar IV) as from 30 June 2008. The Secretariat has informed the Commission that that decision did not benefit from consultations with United Nations Headquarters and that it left UNMIK without the technical capability or budgetary allocation to replace Commission-funded experts. In the meantime, the Kosovo government has passed legislation that comes into force on 15 June that effectively seeks to assume tasks and competencies currently carried

out by pillar IV with regard to administrative authority over socially owned and publicly owned enterprises. This legislation, combined with the announced closure of pillar IV, effectively removes UNMIK authority and capacity to control those areas.

## III. Efforts to reach a compromise

10. The declaration of independence of Kosovo and the entry into force of its new constitution on 15 June pose significant challenges to the Mission's ability to exercise its administrative authority. Moreover, the events in northern Kosovo indicate the resolve of many Kosovo Serbs to reject participation in Kosovo institutions. In this context, I believe that the United Nations is confronting a new reality in Kosovo, with operational implications for UNMIK that it must take into account. It is my assessment that not doing so could lead to increased tension in Kosovo, including among Kosovo communities, and would contribute to an unwelcoming environment for the international civil presence. In the light of these considerations, there is a pressing need for a solution that preserves international peace and security and stability in Kosovo.

11. To this end, I employed my good offices with the parties and key stakeholders to ascertain whether there was a basis for a status-neutral solution that would address the challenges outlined above in a realistic and practical manner within the framework of resolution 1244 (1999), as well as serve to manage effectively the situation on the ground, reduce tension and safeguard stability in Kosovo and in the wider region. My discussions with members of the Security Council indicate that there is an interest in adjusting the operational role of the United Nations in Kosovo in the light of the evolving circumstances.

12. I also engaged in direct consultations with Pristina and Belgrade on possible future arrangements for the international civil presence in Kosovo. To that end, the Under-Secretary-General for Peacekeeping Operations travelled to the region to explore a compromise that would create the conditions for a general acceptance of a restructured international civil presence in Kosovo. Serbia and the Kosovo Serbs have indicated that they would find an enhanced operational role for the European Union in the area of the rule of law acceptable, provided that such activities would be undertaken under the overall status-neutral authority of the United Nations. Following those discussions, it is my assessment that both Pristina and Belgrade recognize the need to devise a solution that allows for the continuation of the international civil presence in Kosovo. In that regard, Serbia has expressed particular concerns with respect to police, customs, justice, transportation and infrastructure, management of the Administrative Boundary Line and cultural heritage. On the basis of those consultations, I have written to His Excellency, Mr. Boris Tadić and His Excellency, Mr. Fatmir Sejdiu, describing practical arrangements that I will instruct my Special Representative to develop with them in each of these areas (see annexes I and II).

13. The offer of the European Union to play a greater operational role is, likewise, a key development. Such an enhanced role would allow the United Nations to share responsibilities by drawing upon the expertise and resources of this regional organization and partner. Mindful of the fact that there is a need to devise an operational solution for UNMIK that preserves the positive legacy of the United

Nations in Kosovo and the Balkans and is within the framework of resolution 1244 (1999), and noting the willingness of the European Union to play an enhanced role in Kosovo, it is my assessment that the objectives of the United Nations would be best obtained through an enhanced operational role for the European Union in the area of the rule of law under the umbrella of the United Nations, headed by my Special Representative. I expect the OSCE mission in Kosovo to continue its work as part of the reconfigured UNMIK. The presence of the OSCE mission throughout Kosovo will be crucial for the promotion of democratic values at the grass-roots level and the protection of the legitimate interests of all communities in Kosovo.

## IV. Structure of the Mission

14. The recent and upcoming events in Kosovo will have significant operational implications for UNMIK. In the light of the evolving situation in Kosovo, on the basis of extensive consultations with Belgrade, Pristina and key stakeholders and pending guidance from the Security Council, it is my intention to adjust operational aspects of the international civil presence in Kosovo. I have decided, upon careful consideration and analysis, that the conditions on the ground require a practical adjustment to the structure and profile of UNMIK. Unless the Security Council decides otherwise, resolution 1244 (1999) will remain the legal framework for the United Nations mandate, whose practical implementation will depend on evolving circumstances.

15. I have taken note of the readiness of the European Union to play an enhanced role in Kosovo as reflected in the conclusions of the European Council of 14 December 2007. It is my assessment that the capacity of the European Union to deploy a rule-of-law mission to Kosovo could, as foreseen in Security Council resolution 1631 (2005), usefully complement the work of the United Nations and have a positive impact on the optimal use of limited resources. I have also taken into consideration the general interest of the United Nations and the recognition of the potentially valuable contribution that regional organizations can bring in support of the efforts of the United Nations in the maintenance of international peace and security.

16. The European Union will perform an enhanced operational role in the area of the rule of law under the framework of resolution 1244 (1999) and the overall authority of the United Nations. The European Union will, over a period of time, gradually assume increasing operational responsibilities in the areas of international policing, justice and customs throughout Kosovo. It is understood that the international responsibility of the United Nations will be limited to the extent of its effective operational control. The United Nations presence will carry out the following functions, among others to be defined: (a) monitoring and reporting; (b) facilitating, where necessary and possible, arrangements for Kosovo's engagement in international agreements; (c) facilitating dialogue between Pristina and Belgrade on issues of practical concern; and (d) functions related to the dialogue concerning the implementation of the provisions specified in my letter to Mr. Tadić and referenced in my letter to Mr. Sejdiu.

## V. Observations

17. It is my assessment that events in Kosovo have had and will continue to have a significant operational impact on the functioning of UNMIK. While UNMIK has made progress in fulfilling and completing tasks set forth in paragraph 11 of resolution 1244 (1999), since the inception of the Mission in 1999, the scope of activities that it has performed has been reduced significantly. Following the entry into force of the Kosovo constitution, it is my assessment that UNMIK will no longer be able to perform effectively the vast majority of its tasks as an interim administration.

18. Without careful management, recent developments and future emerging realities on the ground could lead to increasing tension between the Kosovo communities and contribute to friction between UNMIK and other actors, local and international, in Kosovo. There is an overriding need to ensure international peace and security and safeguard the legacy of the United Nations and the international community in Kosovo and the wider region. I am particularly mindful of the need to ensure that the rights of all communities in Kosovo are fully protected and preserved.

19. It is for these reasons that I intend, pending guidance from the Security Council, to reconfigure the international civil presence in Kosovo. There is a practical need for a recalibrated international presence that is better suited to address current and emerging operational requirements in Kosovo. In consideration of the European perspective of Kosovo and Serbia and in keeping with the expressed willingness of the European Union to play an enhanced operational role in Kosovo in the area of the rule of law, I intend to move forward with practical arrangements to enable the European Union to enhance its operational role in that sector.

20. It is my intention to consult further with relevant partners, including the European Union and OSCE, with a view to determining the functional provisions for the continued international civil presence and moving forward with the implementation of those provisions as soon as feasible. In that connection, I am grateful for the continuing commitment of the North Atlantic Treaty Organization to support the international civil presence in accordance with resolution 1244 (1999). I am confident that the authorities in Pristina and Belgrade, as well as the people of Kosovo, will continue to work with the United Nations in safeguarding and consolidating peace and stability in order to move Kosovo and the rest of the Balkans region forward towards a more stable and prosperous future in Europe.

## Annex I

### Letter dated 12 June 2008 from the Secretary-General to His Excellency Mr. Boris Tadić

The position of the United Nations on the question of the status of Kosovo has been one of strict status neutrality. Following Kosovo's unilateral declaration of independence on 17 February 2008, some Member States have recognized Kosovo as a sovereign state, while others have not. Security Council resolution 1244 (1999) continues to be in force until the Security Council decides otherwise.

In the absence of other guidance from the Security Council and following consultations with your Government and other relevant stakeholders, I intend to exercise the authority vested in me by resolution 1244 (1999) to reconfigure the international civil presence as set out in my report to the Security Council (S/2008/354). Furthermore, the following provisions would be temporary arrangements that would apply for a limited duration and without prejudice to the status of Kosovo.

1. **Police**

Kosovo Police Service personnel operating in relevant Serb-majority areas should report to international police under the overall authority of my Special Representative.

2. **Courts**

Additional local and district courts serving relevant Serb-majority areas may be created. They will operate within a Kosovo court system under the applicable law within the framework of resolution 1244 (1999).

3. **Customs**

My Special Representative will determine, in consultation with relevant stakeholders, an organizational structure allowing Kosovo to continue to function as a single customs area, which will include guarantees for the continued presence of international customs officers at relevant customs points.

4. **Transportation and infrastructure**

A technical coordination committee, including Serbia and other relevant stakeholders, will be established by my Special Representative to address all relevant technical and cross-boundary issues, taking into account the work of the Pristina-Belgrade technical dialogue working group.

5. **Boundaries**

In accordance with resolution 1244 (1999), the North Atlantic Treaty Organization, as the international military presence, will continue to fulfil its existing security mandate throughout Kosovo, including with respect to the boundaries, in conjunction with other international organizations.

**6. Serbian patrimony**

**The Serbian Orthodox Church in Kosovo shall be afforded international protection. The Serbian Orthodox Church in Kosovo will remain under the direct authority of its religious seat in Belgrade. The Church will retain the sole right to preserve and reconstruct its religious, historical and cultural sites in Kosovo. Serbia will continue close cooperation with the United Nations and all relevant bodies in the provision of support to such preservation and reconstruction activities.**

**Concerning the implementation of the above provisions, my Special Representative will pursue a dialogue with your Government. In this context, my Special Representative will consult with other relevant stakeholders, including the authorities in Pristina. In accordance with paragraph 6 of resolution 1244 (1999), I intend to appoint a new Special Representative in conjunction with the envisaged reconfiguration.**

**Mindful of the commitment of the European Union to the region, I intend to consult with the European Union High Representative for the Common Foreign and Security Policy to determine an operational role for the European Union in the implementation of the above provisions within the United Nations status-neutral framework.**

(*Signed*) **Ban** Ki-moon

## Annex II

### Letter dated 12 June 2008 from the Secretary-General to His Excellency Mr. Fatmir Sejdiu

The United Nations Interim Administration Mission in Kosovo (UNMIK) continues to operate within the framework of Security Council resolution 1244 (1999) and to implement its mandate in the light of the evolving circumstances. The position of the United Nations is one of strict neutrality with respect to the status of Kosovo.

It is my view that recent events in Kosovo have significant operational implications for UNMIK, which require it to adjust to developments and to changes on the ground. You will recall that I signalled this possibility in my most recent report to the Security Council (S/2008/211). The efforts of the United Nations are directed at ensuring that the political and security situation in Kosovo and in the wider region remains stable and that the population of Kosovo, and in particular the minority communities, are adequately protected.

Following the adoption of a declaration of independence by the Assembly of Kosovo on 17 February 2008, a number of Member States have recognized Kosovo as a sovereign state, while others have not. I also note that a new constitution for Kosovo is expected to come into effect on 15 June. These developments, taken together, are contributing to a substantially changed situation in Kosovo.

In the absence of other guidance from the Security Council, and following extensive consultations, it is my intention to reconfigure the structure and profile of the international civil presence to one that corresponds to the evolving situation in Kosovo and that enables the European Union to assume an enhanced operational role in Kosovo, in accordance with resolution 1244 (1999).

In conjunction with the reconfiguration of UNMIK and in order to address operational concerns that have arisen since 17 February, certain practical arrangements would be implemented, as set out in annex I. These arrangements would apply for a limited duration and without prejudice to the status of Kosovo. In this context, and concerning the implementation of these provisions, my Special Representative will consult with you and other relevant stakeholders.

I am confident that the authorities and people of Kosovo will continue to cooperate with the United Nations in safeguarding and consolidating the significant results we have achieved together and the legacy of the United Nations in Kosovo.

(*Signed*) **Ban** Ki-moon